

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
GREGORY J. DIAZ,

Plaintiff,

- against -

CITY OF NEW YORK, NEW YORK CITY POLICE  
DEPARTMENT and POLICE OFFICER ANDREW ALI  
(SHIELD NO. 30757),

Defendants.  
-----X

Index No.

**VERIFIED COMPLAINT**

Plaintiff, GREGORY J. DIAZ, complaining of the defendants, by his attorneys, FRIEDMAN, LEVY, GOLDFARB & GREEN, P.C., alleges upon information and belief as follows:

1. That at all times hereinafter mentioned, plaintiff GREGORY J. DIAZ was and still is an individual residing at 123 East 129<sup>th</sup> Street, County, City and State of New York.

2. That at all times hereinafter mentioned defendant, CITY OF NEW YORK, (hereinafter referred to as "CITY"), was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

3. That, at all times hereinafter mentioned, the defendant, NEW YORK CITY POLICE DEPARTMENT, (hereinafter referred to as "NYPD"), was and still is an agency of the City of New York duly organized and existing under and by virtue of the laws and rules of the City of New York.

4. That on March 12, 2013, and at all times hereinafter mentioned, defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), was and still is a police officer in the employ of defendant, NYPD.

5. That on March 12, 2013, and at all times hereinafter mentioned, defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), was an agent, employee and/or servant of defendant, NYPD, and acted within the scope of his employment and authority as a New York City Police Officer.

6. That on March 12, 2013, plaintiff GREGORY J. DIAZ was arrested by the NYPD and charged with: PL 220.39(1) – Criminal sale of a controlled substance in the third degree

7. That on September 24, 2013, all charges were dismissed.

**AS AND FOR A FIRST CAUSE OF ACTION**

8. That on March 12, 2013, defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), while working within the scope of his employment and authority and without probable cause, reasonable grounds, and warrant of arrest or search warrant, forcibly and illegally arrested and unlawfully detained the plaintiff GREGORY J. DIAZ.

9. That the aforesaid illegal arrest and unlawful detention of the plaintiff caused plaintiff, GREGORY J. DIAZ, to suffer humiliation, shame, indignity, damage to reputation and credit and emotional and physical distress, all to his damage in an amount that exceeds the jurisdictional limits of all lower courts.

**AS AND FOR A SECOND CAUSE OF ACTION**

10. Plaintiff, GREGORY J. DIAZ, repeats, reiterates and realleges each and every allegation as contained in paragraphs "1" through "9", inclusive, as if more fully set forth at length herein.

11. That on March 12, 2013, defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), was working within the scope of his employment when he intentionally, recklessly and negligently arrested and unlawfully detained the plaintiff, GREGORY J. DIAZ.

12. That the aforementioned illegal arrest and unlawful detention of the plaintiff, GREGORY J. DIAZ, was without justification.

13. That the aforementioned illegal arrest and unlawful detention was committed by defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), within the scope of his employment with defendants NYPD and CITY.

14. That as a result of the aforesaid illegal arrest and unlawful detention, plaintiff GREGORY J. DIAZ, suffered humiliation, emotional and physical distress, all to his damage in an amount that exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A THIRD CAUSE OF ACTION**

15. Plaintiff, GREGORY J. DIAZ, repeats, reiterates and realleges each and every allegation as contained in paragraphs "1" through "14", inclusive, as if more fully set forth at length herein.

16. That defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), in his actions as a police officer acting under the color of law and within the scope of his authority, illegally arrested and unlawfully detained the plaintiff GREGORY J. DIAZ in violation of 42 U.S.C. Section 1983.

17. That defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), in his actions as a police officer, acting under the color of law and within the scope of his authority, deprived the plaintiff GREGORY J. DIAZ of liberty without due process and

without reasonable cause in violation of 42 U.S.C. Section 1983.

18. That the defendants have deprived plaintiff, GREGORY J. DIAZ, by their actions of his civil rights as guaranteed by statute and the Constitutions of the United States and the State of New York.

19. That the aforementioned illegal arrest and unlawful detention was in violation of the civil rights of plaintiff, GREGORY J. DIAZ, more particularly, 42 U.S.C. Section 1983.

20. That defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), was not privileged or immune.

21. That as a result of the violation of his civil rights, plaintiff has been damaged in an amount that exceeds the jurisdictional limits of all lower Courts.

#### **AS AND FOR A FOURTH CAUSE OF ACTION**

22. Plaintiff, GREGORY J. DIAZ, repeats, reiterates and realleges each and every allegation as contained in paragraphs "1" through "21", inclusive, as if more fully set forth at length herein.

23. That defendants, NYPD and CITY, were responsible for hiring police officers, including defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), herein, who was incompetent and incapable of properly carrying out his job without causing injuries to persons including plaintiff herein.

24. That defendants, NYPD and/or CITY, were negligent, reckless and careless in the hiring and retention of the defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757).

25. That defendants, NYPD and/or CITY, negligently failed to investigate and determine whether the defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), was competent and/or capable, inclusive of his psychological and emotional state, of carrying out his job without causing the injuries specified herein.

26. That as a result of the negligence of defendants, NYPD and/or CITY, in the hiring and retention of POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), plaintiff, GREGORY J. DIAZ, was caused to suffer emotional anguish and deprivation of his civil rights and has been damaged in an amount that exceeds the jurisdictional limits of all lower Courts.

**AS AND FOR A FIFTH CAUSE OF ACTION**

27. Plaintiff, GREGORY J. DIAZ, repeats, reiterates and realleges each and every allegation as contained in paragraphs "1" through "26", inclusive, as if more fully set forth at length herein.

28. That defendants, NYPD and/or CITY, were responsible for the training of police officers, including the defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), who was incompetent and incapable of properly carrying out his job without causing injuries to persons including plaintiff, GREGORY J. DIAZ, herein.

29. That defendants, NYPD and/or CITY, were negligent, reckless and careless in the training of defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757).

30. That as a result of the negligence of defendants, NYPD and/or CITY, in the training of defendant, POLICE OFFICER ANDREW ALI (SHIELD NO. 30757), involved herein, plaintiff, GREGORY J. DIAZ, was caused emotional anguish and

deprivation of his civil rights and has been damaged in an amount that exceeds the jurisdictional limits of all lower Courts.

**CONDITIONS PRECEDENT**

31. That on November 12, 2013 and within 90 days after the claim herein arose, the plaintiff caused a Notice of Claim, in writing, sworn to and verified by the claimant, to be served upon the City of New York at the Office of the Comptroller of the City of New York.

32. At least 30 days have elapsed prior to the commencement of this action since the claim was presented to said defendants for adjustment as aforesaid and they have refused adjustment or payment.

33. The plaintiff complied with the defendants' demand for examination pursuant to 50-h of the General Municipal Law, to wit: on January 16, 2014.

34. This action is being commenced within one year and ninety days after the happening of the event upon which the claim is based.

**WHEREFORE**, plaintiff demands judgment against the defendants:

(a) on the First Cause of Action in a sum exceeding the jurisdiction of all lower Courts that might otherwise have jurisdiction over this matter;

(b) on the Second Cause of Action in a sum exceeding the jurisdiction of all lower Courts that might otherwise have jurisdiction over this matter;

(c) on the Third Cause of Action in a sum exceeding the jurisdiction of all lower Courts that might otherwise have jurisdiction over this matter;

(d) on the Fourth Cause of Action in a sum exceeding the jurisdiction of all lower Courts that might otherwise have jurisdiction over this matter; and

(e) on the Fifth Cause of Action in a sum exceeding the jurisdiction of all lower Courts that might otherwise have jurisdiction over this matter;

(f) together with the costs and disbursements of this action, and with interest from the date of this accident.

Dated: New York, New York  
April 22, 2014

Yours, etc.,

**FREIDMAN, LEVY, GOLDFARB & GREEN, P.C.,**  
Attorneys for Plaintiff  
250 West 57 Street - Suite 1619  
New York, NY 10107  
(212) 307-5800

By: 

IRA H. GOLDFARB

INDIVIDUAL VERIFICATION

STATE OF NEW YORK     )  
                                      ) ss.:  
COUNTY OF NEW YORK    )

Gregory J. Diaz, being duly sworn deposes and says:

That deponent is the plaintiff in the annexed complaint and has read the foregoing Complaint and knows the contents thereof, that the same is true to his/her knowledge, except as to those matters stated to be alleged upon information and belief, and to those matters he/she believes to be true.

x [Signature]

Sworn to before me this 22<sup>nd</sup>  
day of April, 20 14

[Signature]  
NOTARY PUBLIC

CATHERINE CARDOZO  
Notary Public, State of New York  
No. 01046097634  
Qualified in Queens County  
Commission Expires August 25, 20 15